

A C T O F C O N G R E S S.

their debts, as well before the commissioners as upon a trial at law, in case the due issuing forth of the said commission shall be contested, and also for proving the party a bankrupt, and to proceed on such commission, in the manner herein prescribed. And if such debt shall not be really due, or after such commission taken out it cannot be proved that the party was a bankrupt, then the said judge shall, upon the petition of the party aggrieved, in case there be occasion, deliver such bond to the said party, who may sue thereon, and recover such damages, under the penalty of the same, as, upon trial at law, he shall make appear he has sustained, by reason of any breach of the condition thereof.

Sec. 3. *And be it further enacted,* That before the commissioners shall be capable of acting, they shall respectively take and subscribe the following oath or affirmation, which shall be administered by the judge issuing the commission, or by any of the judges of the supreme court of the United States, or any judge, justice, or chancellor of any state court, and filed in the office of the clerk of the district court: "I, A. B. do swear, or affirm, that I will faithfully, impartially, and honestly, according to the best of my skill and knowledge, execute the several powers and trusts reposed in me, as a commissioner in a commission of bankruptcy against _____, and that without favour or affection, prejudice or malice." And the commissioners, who shall be sworn as aforesaid, shall proceed, as soon as may be, to execute the same; and upon due examination, and sufficient cause appearing against the party charged, shall and may declare him or her to be a bankrupt: Provided, that before such examination be had, reasonable notice thereof, in writing, shall be delivered to the person charged as a bankrupt; or if he or she be not found at his or her usual place of abode, to some person of the family above the age of twelve years, or if no such person appear, shall be fixed at the front or other public door of the house, in which he or she usually resides, and thereupon it shall be in the power of such person, so charged as aforesaid, to demand before, or at the time appointed for such examination, that a jury be impanelled to inquire into the fact or facts, alleged as the causes for issuing the commission, and on such demand being made, the inquiry shall be had before the judge granting the commission, at such time as he may direct, and in that case, such person shall not be declared bankrupt, unless, by the verdict of the jury, he or she shall be found to be within the description of this act, and shall be convicted of some one of the acts described in the first section of this act: Provided also, that any commission which shall be taken out as aforesaid, and which shall not be proceeded in as aforesaid, within thirty days thereafter, may be superseded by the said judge, who shall have granted the same, upon the application of the party thereby charged as a bankrupt, or of any creditor of such person, unless the delay shall have been unavoidable, or upon a just occasion.

Commissioners to take an oath, &c.

Sec. 4. *And be it further enacted,* That the commissioners so to be appointed, shall have power, forthwith, after they have declared such person a bankrupt, to cause to be apprehended, by warrant under their hands and seals, the body of such bankrupt, wheresoever to be found, within the United States: Provided, they shall think, that there is reason to apprehend that the said bankrupt intends to abscond or conceal him or herself, and in case it be necessary, in order to take the body of the said bankrupt, shall have power to cause the doors of the dwelling-house of such bankrupt, to be broken, or the doors of any other house in which he or she shall be found.

Commissioners may cause the bankrupt to be arrested.

Sec. 5. *And be it further enacted,* That it shall be the duty of the commissioners so to be appointed, forthwith, after they have declared such person a bankrupt, and they shall have power, to take into their possession, all the estate, real and personal, of every nature and description to which the said bankrupt may be entitled, either in law or equity, in any manner whatsoever, and cause the same to be inventoried and appraised to the best value, (his or her necessary wearing apparel, and the necessary wearing apparel of the wife and children, and necessary beds and bedding of such bankrupt only excepted) and also to take into their possession, and secure, all deeds and books of account, papers and writings belonging to such bankrupt; and shall cause the same to be safely kept, until assignees shall be chosen or appointed, in manner hereafter provided.

They shall take into their possession the bankrupt's property, &c.

Sec. 6. *And be it further enacted,* That the said commissioners shall forthwith, after they have declared such person a bankrupt, cause due and sufficient public notice thereof to be given, and in such notice shall appoint some convenient time and place for the creditors to meet, in order to choose an assignee or assignees of the said bankrupt's estate and effects;—at which meeting the said commissioners shall admit the creditors of such bankrupt, to prove their debts;—and where any creditor shall reside at a distance from the place of such meeting, shall allow the debt of such creditor to be proved by oath or affirmation, made before some competent authority, and duly certified, and shall permit any person duly authorized by letter of attorney from such creditor, due proof of the execution of such letter of attorney being first made, to vote in the choice of an assignee or assignees of such bankrupt's estate and effects, in the place and stead of such creditor: And the said commissioners shall

Notice of the bankruptcy, &c.